



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision Request for Variance Ed Batchelder/Map 140, Lot 2

August 7, 2014

**Applicant: Ed Batchelder
99 Kelley Pond Road
New Hampton, NH 03256**

Location: 144 Bean Road, Moultonborough, NH (Tax Map 140, Lot 2)

On July 16, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Ed Batchelder (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III. B (1), to allow the construction of an attached front porch located within the front (right of way) setback approximately 15 feet where 25 feet is required, on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:


- 1) The property is located at 144 Bean Road (Tax Map 140, Lot 2).
- 2) The applicant is the owner of record for the lot.
- 3) Chairman Robert Stephens recused himself from the Board for both hearings as he is a direct abutter.
- 4) There was no one present representing the applicant at the meeting on July 16th, 2014. The ZBA voted 5-0 to table the application and continue the Public Hearing to August 6th, 2014.
- 5) At the August 6th public hearing, Ed Batchelder presented the application for the variance.
- 6) The lot is located in the Residential Agricultural (RA) Zoning District.
- 7) The proposal calls for the construction of an attached front porch to be located within the front (right of way) setback.

- 8) The setback affected is the twenty-five foot (25') front setback.
- 9) Members questioned the dimensions of the proposed porch and the amount of intrusion into the setback.
- 10) One abutter expressed their concerns regarding diminution of their property value.
- 11) The applicant indicated to the Board that he would have to remove the existing construction and replace with piers and code compliant materials and construction while leaving the existing roof if the relief is approved.
- 12) Granting the Variance would not be contrary to the public interest as the Board felt that the older farm dwelling did not appear normal without a front farmer's porch, and that with it, it fit the character of the neighborhood.
- 13) Granting the Variance would be consistent with the spirit of the Ordinance because the older farm dwelling did not appear normal without a front farmer's porch, and that with it, it fit the character of the neighborhood.
- 14) By granting the Variance, substantial justice would be done because there is no public benefit to be gained, while the harm is great to the applicant because the original design of the residential structure included a front farmer's porch and other area houses had them in similar distances to the right of way line.
- 15) Granting the Variance would not diminish the value of surrounding properties as other decks are situated within the front setback and if built correctly, the dwelling would look as it was intended when originally constructed.
- 16) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the need for a front porch was demonstrated by the applicant by noting that the dwelling was meant/designed to have one and the structure would not look right without it.
- 17) On August 6, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Nolin, Crowe, Jenny, Hopkins, DeMeo) and none (0) opposed to grant the request for a variance with the following conditions: 1) That the existing deck is to be removed and all appropriate permits obtained prior to reconstruction; 2) That the deck not extend greater than six (6) feet from the front of the house within the front setback...

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on August 20, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Nolin, Bickford, Crowe, Zewski, Onthank), none (0) opposed.

The decision made to Grant the variance on August 6, 2014 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Russell Nolin
Vice Chairman, Zoning Board of Adjustment

Date 8/20/14